



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Motorola Inc.

File: B-234615

Date: May 9, 1989

DIGEST

Agency properly rejected bid where radio equipment offered for qualification does not meet solicitation requirement for UHF channel and tone display and selection.

DECISION

Motorola Inc. protests the award of a contract for item No. 0003, under invitation for bids (IFB) No. FS-1-89, issued by the Forest Service, U.S. Department of Agriculture, for radio equipment. The protester contends that the agency improperly rejected Motorola's bid.

We deny the protest.

On November 4, 1988, the agency issued this IFB for 22 types of land mobile radio communications equipment. The solicitation provided for multiple award of fixed-price requirements contracts to the lowest responsive, responsible bidder for each item. The solicitation contained Federal Acquisition Regulation (FAR) clause 52.209-1 (FAC 84-39), "Qualification Requirements," providing that before award, bidders must have demonstrated that offered products met the agency's requirements.

The IFB also contained "minimum standard specifications" for the equipment, which required that a separate tone selector be furnished apart from the channel selector to allow an operator to select tones or select "off" (no tone). In addition, the individual items listed in the schedule contained specific additional requirements. With respect to item 0003 of the schedule, for personal portable radios, two additional requirements were listed; one required that the equipment have a minimum of "8-tones selectable via channel selector or separate selector," and the second required that UHF equipment be capable of at least 12 channels with 4 tones each.

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One week prior to the bid opening of December 9, Motorola submitted its MT1000 radio for qualification testing under item 0003. Bids were opened on December 9, and Motorola's bid was low for item 0003. On January 20, 1989, the agency advised Motorola that its bid was being rejected because its channel selection methodology and display did not meet the agency's requirements. Motorola filed an agency-level protest on February 2. Its agency-level protest was denied on February 15. Motorola filed this protest with our Office on February 23.

The agency reports that Motorola's product fails to meet the requirement for a channel and tone selector and also fails to meet the requirement that the equipment be capable of 12 UHF channels with 4 tones each.

Motorola argues that its equipment meets channel and tone selector requirements. Motorola argues that it reasonably believed that the specific item 0003 requirement permitted tone selection on the channel selector as an alternative to a separate selector for tone. Motorola states in this regard that, by assigning the 8 tones on channel 1 as numbers 11-18, on channel 2 as numbers 21-28 and so on, its digital display can show channels and tones simultaneously with one selector switch. Motorola also argues its product can meet the requirement for UHF channel and tones.

We need not resolve the issue of the MT1000's compliance with the alleged requirement for separate channel/tone selector because we find the other basis for rejection concerning UHF channel capability was proper.

Procuring officials are in the best position to know the government's needs because they are familiar with the conditions under which the goods or services will be used. See Libby Corp., et al., B-220392 et al., Mar. 7, 1986, 86-1 CPD ¶ 227. Therefore, the determination of the government's needs and the best method of accommodating those needs are matters primarily within the contracting agency's discretion. Allen Organ Company--Reconsideration, B-231473.2, Aug. 31, 1988, 88-2 CPD ¶ 196.

The RFP required UHF capability for 12 channels and 4 tones each. The agency interpreted this requirement as requiring the equipment to display these channels and tones. The agency advises that the MT1000 possesses a physical limitation because it only has a two digit display. Thus, the MT1000 digital display cannot show channels 10, 11 and 12 simultaneously with the required number of tones which is required by the RFP, as reasonably interpreted by the

agency.^{1/} The protester does not dispute the display limitation, but instead argues that the required 12-channel and 4-tone combination for UHF can be met by designating any set of 48, 2-digit numbers, as the UHF channel and specified tone. The protester concedes that a card attached to the radios would be needed for users to convert the agency's standard 3-digit channel-tone setting to a 2-digit setting on the MT1000.

The agency explains that none of the 50,000 radios currently in use requires a conversion chart to use the radio for setting channel and tone. The existing equipment allows the UHF two digit channel and tone to be directly set by the user. The Forest Service reports that the item 0003 equipment is used in nighttime-emergencies with vision impaired conditions, frequently by untrained personnel. For example, the Forest Service used this equipment at the Yellowstone Park fires of 1988, during which the Forest Service employed large numbers of volunteers as firefighters. The agency states that it has little time to train such personnel and screens them primarily for their ability to cope physically with emergency situations. The agency further states it is impractical to train volunteers in two types of radio use. The agency asserts that the ability to communicate swiftly with fire crews and for the crews to maintain communication with incident control centers is critical to the safety of the crews and the success of their efforts.

We think that the agency has a reasonable concern that radio channel and tone display and selection should be as simple and uniform as possible. We further agree with the agency that a conversion card attached to the radio would be unreadable in the emergency conditions it often would be used and could easily be lost or misplaced. We therefore find the agency's determination of its minimum need for equipment which is relatively simple to use, and its finding that the MT1000 does not meet this needs, to be reasonable.

The protest is denied.



for James F. Hinchman
General Counsel

^{1/} We think it was obvious that some kind of display of the channels and tones was required for a UHF capable radio since otherwise the equipment would be useless.